

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

LAKESHIA AARON,

Plaintiff,

Civil Action

File No.: 2:23-cv-00374-MHT

v.

TERESA L. FERRELL a/k/a
TERESA L. BRIGGS,

Defendant.

PLAINTIFF'S SECOND AMENDED APPLICATION
TO CLERK FOR ENTRY OF DEFAULT

Pursuant to Federal Rule of Civil Procedure 55(a), Plaintiff LAKESHIA AARON hereby requests that the Clerk enter a default against Defendant TERESA L. FERRELL a/k/a TERESA L. BRIGGS for failing to timely respond to the complaint. In support of this request, Plaintiff states:

1. On June 9, 2023, Plaintiff filed a complaint against Defendant Teresa L. Ferrell a/k/a Teresa L. Briggs (“Defendant Ferrell”). See Complaint [D.E. 1].
2. On July 11, 2023, Plaintiff effected service of process on Defendant Ferrell by personally serving Defendant. Plaintiff filed the return of service on July 17, 2023. See return of service [D.E. 8].
3. Accordingly, Defendant Ferrell was required to respond to Plaintiff’s complaint by August 1, 2023, or twenty-one (21) days from the date of service.

See Fed. R. Civ. P. 12(a)(1)(A)(I). See also [D.E. 8].

4. Because Defendant failed to respond or otherwise defend against a judgment as to Plaintiff's complaint by August 8, 2023, Plaintiff filed her initial Application for Entry of Clerk's Default on that day. See [D.E. 9]

5. On August 16, 2023, Defendant Ferrell, as a pro se litigant, filed a Motion for Extension of Time to File Answer, requesting an extension up to and including August 30, 2023 in which to file her answer to Plaintiff's complaint.

See [D.E. 10]

6. On August 18, 2023, per the court's order, Defendant's Motion was granted. See [D.E. 14]

7. Defendant, still a pro se litigant, did not file an Answer on or before August 30, 2023.

8. In response to Defendant Ferrell's failure to file an Answer timely, on September 11, 2023, Plaintiff Lakeshia Aaron filed her Amended Application for Clerk's Entry of Default. See [D.E. 15]

9. On September 13, 2023, the Court issued an order staying Plaintiff's Amended Application for Clerk's Entry of Default and allowing pro se Defendant up to and including October 13, 2023 to file an Answer. See [D.E. 16]

10. On October 13, 2023, Defendant Ferrell, now represented by counsel, filed a Motion to Dismiss for Failure to State a Claim or In The Alternative for

More Definite Statement. Accordingly, while this Court's ruling on said motion was pending, Defendant was not required to file an Answer. See [D.E. 18]

11. Plaintiff timely filed a response in opposition to Defendant's motion to dismiss [D.E. 22], and on December 4, 2023, the Court issued an order denying Defendant's motion. See [D.E. 23]

12. Pursuant to Federal Rule of Civil Procedure 12(a), Time to Serve a Responsive Pleading: "Unless the court sets a different time, serving a motion under this rule alters these periods as follows: if the court denies the motion or postpones its disposition until trial, the responsive pleading must be served within 14 days after notice of the court's action". (Fed. R. Civ. P. 12(a)(4)(A))

13. Defendant Ferrell therefore had 14 days from the date the Court issued its order denying Defendant's motion [D.E. 23], or up to and including Monday, December 18, 2023, in which to file an Answer.

14. As of March 6, 2024, Defendant Ferrell has failed to respond or otherwise defend against a judgment as to Plaintiff's complaint.

15. "When a party fails to plead or otherwise defend a judgment for affirmative relief, the clerk of the court must enter a default against the party against whom the judgment was sought." (Fed. R. Civ. P. 55(a)).

16. Accordingly, Plaintiff Lakeshia Aaron amends and resubmits her request for entry of a Clerk's default in the form attached as Exhibit 1 to this motion.

Respectfully submitted this 6th day of March, 2024.

/S/ Joseph W. Weeks
Joseph W. Weeks
Georgia Bar No. 912341
Attorney for Plaintiff

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TERESA L. BRIGGS,

Defendant.

CERTIFICATE OF SERVICE PURSUANT TO L.R. 5.4

This is to certify that I have this day served the PLAINTIFF'S SECOND AMENDED APPLICATION TO CLERK FOR ENTRY OF DEFAULT and all Exhibits thereto upon all parties of record in this case via filing said pleading electronically using the court's CM/ECF system which will automatically send notice to registered users via email, and/or by serving a physical copy of said pleading upon the parties at their last known residence address via USPS First Class Mail, with proper postage affixed and addressed as follows:

Amardo Wesley Pitters
Law Offices of A. Wesley Pitters
1145 South Perry Street
Montgomery, AL 36102-1973
awpitters@ pitterslawfirm.com

This 6th day of March, 2024.

/S/ Joseph W. Weeks

Joseph W. Weeks
Georgia Bar No. 912341
Attorney for Plaintiff

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